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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JAY A. GREEK,

12 Plaintiff,

13 v.

14 COMMISSIONER OF THE INTERNAL
15 REVENUE,

16 Defendant.
17

No. 2:20-cv-00278-KJM-KJN PS

ORDER GRANTING IFP REQUEST AND
DIRECTING SERVICE

(ECF Nos. 2, 3)

18 Plaintiff, who proceeds in this action without counsel, has requested leave to proceed in
19 forma pauperis pursuant to 28 U.S.C. § 1915. (ECF No. 2.)¹ Plaintiff's application in support of
20 his request to proceed in forma pauperis makes the showing required by 28 U.S.C. § 1915.
21 Accordingly, the court grants plaintiff's request to proceed in forma pauperis.

22 The determination that a plaintiff may proceed in forma pauperis does not complete the
23 required inquiry. Pursuant to 28 U.S.C. § 1915, the court is directed to dismiss the case at any
24 time if it determines that the allegation of poverty is untrue, or if the action is frivolous or
25 malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against
26 an immune defendant.

27 _____
28 ¹ This case proceeds before the undersigned pursuant to E.D. Cal. L.R. 302(c)(21) and 28 U.S.C.
§ 636(b)(1).

1 In this case, plaintiff alleges that defendant violated the Privacy Act and improperly
2 garnished his pay. (See generally ECF No. 1.) Plaintiff also appears to allege certain procedural
3 requirements were not followed and that defendant inappropriately determined certain income
4 was taxable. (See id. at 7.)

5 Based on the limited record before the court, the undersigned cannot conclude that
6 plaintiff's action is frivolous, that the complaint fails to state a claim upon which relief can be
7 granted, or that plaintiff seeks monetary relief from an immune defendant. The court reserves
8 decision as to plaintiff's claims until the record is sufficiently developed, and this order does not
9 preclude defendant from challenging plaintiff's complaint through a timely motion pursuant to
10 Federal Rule of Civil Procedure 12 or other appropriate method of challenging plaintiff's
11 pleading. Accordingly, the court orders service of the complaint on defendant.

12 Additionally, plaintiff has filed a motion seeking permission to electronically file in this
13 matter. Generally, "any person appearing pro se may *not* utilize electronic filing except with the
14 permission of the assigned Judge or Magistrate Judge." E.D. Cal. L.R. 133(b)(2) (emphasis in
15 original). The court finds no reason in the present case to deviate from this general rule. At the
16 current stage of litigation, plaintiff's motion (ECF No. 3) is therefore DENIED.

17 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff's motion to proceed in forma pauperis (ECF No. 2) is GRANTED;
- 19 2. Service of the complaint is appropriate for defendant Commissioner of the Internal
20 Revenue;
- 21 3. The Clerk of Court is directed to issue forthwith all process pursuant to Federal
22 Rule of Civil Procedure 4;
- 23 4. The Clerk of Court shall send plaintiff one USM-285 form, one summons, this
24 court's scheduling order, and the forms providing notice of the magistrate judge's
25 availability to exercise jurisdiction for all purposes.
- 26 5. Plaintiff is advised that to effectuate service, the U.S. Marshal will require:
 - 27 a. One completed summons;
 - 28 b. One completed USM-285 form for each defendant to be served;

1 c. A copy of the complaint for each defendant to be served, with an extra copy
2 for the U.S. Marshal; and

3 d. A copy of this court's scheduling order and related documents for each
4 defendant to be served.

5 6. Plaintiff shall supply the U.S. Marshal, within 30 days from the date this order is
6 filed, with all information needed by the U.S. Marshal to effectuate service of
7 process, and shall, within 10 days thereafter, file a statement with the court that
8 such documents have been submitted to the U.S. Marshal;

9 7. The U.S. Marshal shall serve process, with copies of this court's scheduling order
10 and related documents, within 90 days of receipt of the required information from
11 plaintiff, without prepayment of costs;

12 8. If defendant waives service, defendant is required to return the signed waiver to
13 the U.S. Marshal. The filing of an answer or a responsive motion does not relieve
14 defendant of this requirement, and the failure to return the signed waiver may
15 subject defendant to an order to pay the costs of service by the U.S. Marshal; and


16 9. Failure to comply with this order may result in any appropriate sanctions,
17 including monetary sanctions and/or dismissal of the action pursuant to Federal
18 Rule of Civil Procedure 41(b).

19 10. Plaintiff's motion to electronically file (ECF No. 3) is DENIED.
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21 IT IS SO ORDERED.

22 Dated: March 24, 2020

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25 Greek.278.ifp & serve

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE